

United States District Court

Western District of Texas

Austin Division

FILED

MAY 07 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]* DEPUTY CLERKCOURT COPY
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James Logan Diez,

Plaintiff,

vs.

Google, Inc.,

Defendant.

Case No. C1:20-CV-0495-RPPlaintiff's Original Complaint

To the Honorable Judge of said Court:

Comes now James Logan Diez, hereinafter Plaintiff, and presents this Suit for Damages against GOOGLE, Inc., hereinafter Defendant, and in support of same would show the following:

JURISDICTION

This Court has original jurisdiction over this Action pursuant to 28 U.S.C. § 1332 (2)(I) due to diversity of citizenship and the amount in controversy; and, pursuant to 18 U.S.C. § 2252A (f)(1-2).

Controversy, also, arises under Texas Business & Commerce Code § 17.41 et. seq. (Deceptive Trade Practices), more precisely § 17.50(a)(1)(B)(3), and § 17.46 (a)(b)(5, 7 and 24). J.X. Diez

Defendant herein proceeds pro se, hence, prays the Court liberally construe the pleadings in the interest of fairness and justice.

PARTIES

Plaintiff: James Logan Diez
#51285
P.O. Box 1098
Burnet, TX 78611

Defendant: GOOGLE, Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

*NOTE ON DEFENDANT'S USUAL IMMUNITY CLAIM:
See Brief at APPENDIX A, infra.

STATEMENT OF CLAIM

(1) Defendant has been a Naturist his entire life, and a religious Creationism Naturist (C-N'ist) since June 15, 1969.

(2) Since approximately 2000 A.D., Defendant has acted as a proponent of/for the C-N'ist Religion by posting both textual and photographic Essays on wordpress.com and Pinterest.com respectively.

(3) To find innocent and innocuous LAWFUL images of FAMILY NATURISM, Plaintiff has (in part) used Defendant's GOOGLE IMAGE SEARCH.

(4) Plaintiff reasonably relied on Defendant to NOT provide, nor lead Plaintiff to, any illegal nor "child pornography"

images, in that GOOGLE, Inc. both Publically professes a commitment to providing legal and wholesome content, and had a reputation for filtering illegal child pornography from its "Search Results" to protect its users.

(5) Plaintiff relied on Defendant, also, because the Defendant has continuous input from the National Center for Missing and Exploited Children (NCMEC), and U.S. Department of Justice, as to what images are/aren't "child pornography" [based on known 'hash values'], whereas Plaintiff has no access to such specific data (and what is/isn't a "lewd exhibition" of a child's body parts is impossible for an ordinary citizen to know with a reasonable certainty).

(6) Therefore, Plaintiff reasonably relied upon Defendant and Defendant's "filtering" to have only LEGAL images of Family Naturists and/or links to legitimate Naturism (and/or nudism) websites. Plaintiff held Trust in Defendant's Services.

(7) On numerous occasions, therefore, Plaintiff ran GOOGLE IMAGE SEARCH for the terms "Family Naturist Females", "Family Naturist Girls", "Family Nudist Females", and "Family Nudist Girls", hoping to find images he could use for a photo-essay 'Board' on Pinterest.com titled "Maiden Earth Goddesses" — a photo-essay dedicated to aesthetic display of the Aspects of Ewig Weiblich [The Eternal Feminine], the "All Goddess" worshiped as the feminine counterpart of the "All God" in the C-N'ist Religion.

(8) Plaintiff, over a period of some time, obtained approximately 25-30 images of minor Females [and perhaps 5 to 6 times as many of adults] either by direct download from the "thumbnail" image on the Search "Results" pages, or from a hyperlink provided by Defendant to another website.

(9) When conducting such search using an Android cellphone, Plaintiff sometimes merely made a "screenshot" of images displayed on the GOOGLE IMAGE SEARCH Results pages -

(10) In October 2017, Plaintiff displayed an image he had downloaded, direct from Defendant's search results page, on his Pinterest.com religious photo-essay Board.

(11) The displayed image depicted a 7-8 year old girl standing nude on a sandbar with a scenic background, legs basically together in a natural stance, arms at her sides, looking toward the camera (similar to, perhaps, photographs of Amazonian Indian girl featured in NATIONAL GEOGRAPHIC).

(12) The photograph described above was, in Plaintiff's mind, a good representation of the Nymph-Maiden Aspect of Ewig Weiblich —to wit, the image of Purity and Innocence.

(13) It later came to Plaintiff's attention that the image obtained from Defendant was reported by the

Pinterest 'image police' to NCMEC as "Child Pornography!"

(14) The NCMEC, in turn, reported the image as a "minor child (undressed)" to Texas Law Enforcement Agency.

(15) On December 17, 2017, Sgt. Thomas Peterson of the Burnet County Sheriff's Department, Burnet, Texas, and a team of combat-clad stormtroopers, stormed into the home of Plaintiff, which he shared with his disabled commonlaw wife and (then) 18 year old stepdaughter.

(16) After terrorizing Plaintiff and his wife (Plaintiff's stepdaughter was thankfully not home), Sgt. Peterson handed Plaintiff a Search Warrant based solely and exclusively on the solitary photograph of the girl on the sandbar Plaintiff had downloaded from Defendants search results page (believing it to be a LEGAL image of Family Naturist).

(17) Thereafter, on February 22, 2019, Defendant's provided image was discovered to have lead to the criminal Indictment of Plaintiff for "possession of child pornography" under Texas Penal Code, Art. 43.26's "lewd exhibition of the genitals and female breast" clause!

(18) Plaintiff, thereafter his arrest on Feb. 22, 2019, discovered that EVERY image of a minor female which Plaintiff had obtained from Defendant's GOOGLE IMAGE SEARCH "Results" page, and/or from websites Defendant linked Plaintiff to for "FAMILY Naturist Females/Girls" search parameters, are being held by Texas Authorities

to be "child pornography" containing "lewd exhibitions!"

(19) Defendant knew or should have known that the images displayed in the "Results" would be deemed "child pornography" since Defendant had expansive access to 'hash value' records for child pornographic images.

(20) Defendant did NOT provide ANY form of warning, in or with the "Results" page images, that the images of minor females displayed by Defendant might be and/or were considered illegal "child pornography" in some jurisdictions.

(21) Plaintiff did NOT realize the images were or would be considered "child pornography," because as a lifelong Naturist, and a Religious Naturist since 1969, Plaintiff recognized each image as a normal reflection of moments in the Naturist Homes and Environments.

(22) Defendant held a Fiduciary duty to "protect GOOGLE IMAGE SEARCH users" from the display and promotion of child pornography — especially where such images could be misconstrued as legal images of Naturism by Naturist/Nudist users and/or average citizens researching "Family Naturist."

(23) As a direct result of Defendant's displaying, presenting, and distributing "thumbnails" of images of illegal child pornography under the guise of "Family

Naturist Females/Girls," and because Defendant provided NO cautionary disclaimer accompanying such images, this Plaintiff stands under Felony Indictment for possessing such images provided by and displayed by Defendant.

(24) Furthermore, Plaintiff has, also, suffered and continues to suffer the following due to Defendant's recklessness in displaying child pornography disguised as images of "Family Naturist Females/Girls":

[i] total alienation of Plaintiff's commonlaw wife, stepdaughter, and inlaws;

[ii] total destruction of Plaintiff's hard won Public reputation;

[iii] complete and irreparable ruination of the Plaintiff's Handyman business;

[iv] loss of Freedom during over 1 year of Pre-Trial detention (to date);

[v] possibility of an extremely harsh Texas Prison sentence;

[vi] possibility of Federal prosecution stemming from results of Texas's prosecution;

[vii] extreme mental anguish and suffering of emotional loss of marital and family bond;

[viii] having been physically assaulted in Burnet County Jail due to Plaintiff's charges; and,

[ix] all that obviously goes with such charges!

* See also Appendix B

DAMAGES PRAYED FOR

- [A] Actual Loss of Income in Burnet, Texas, area for the year 2019, and a period of (10) years from 2020 - 2029, in the amount of \$50,000.00 per year of lost business [i.e. \$500,000.00];
- [B] \$5,000,000.00 Actual Damage for alienation of affection of Plaintiff's stepdaughter;
- [C] \$5,000,000.00 Actual Damage for alienation of affection of Plaintiff's commonlaw wife;
- [D] \$10,000,000.00 for destruction of Plaintiff's character, reputation, and acceptance by the community;
- [E] \$1,000,000.00 per year of confinement Plaintiff has served and/or will serve based on charges stemming from any image displayed by the Defendant as a "Result" for the Image Search parameters stated in this complaint/petition;
- [F] Declaratory Relief that Defendant displayed images of child pornography under the guise of "Family Naturist Females/Girls" and/or did recklessly fail to provide warning that the images so displayed MAY be considered to be "child pornography" by some Authorities;

- [G] Corrective Order that Defendant immediately and henceforth provide proper warning with any and all "questionable" images of either nude, semi-nude, or clothed minor children which may be deemed "lewd" child pornography in some jurisdictions;
- [H] Order that Defendant provide Legal Defense Team to represent Plaintiff during any Trial and/or Adversarial Process brought against him due to the images obtained from or through Defendant's GOOGLE IMAGE SEARCH "thumbnails";
- [I] Declaratory Relief that Defendant publish a Public Internet apology to Plaintiff accepting responsibility for recklessly displaying images of child pornography under the guise of "Family Naturist"; and,
- [J] Exemplary/Punitive Damages of \$50,000,000.00 payable 10% to Plaintiff, and 90% to the victims of child pornography.

The damage to Plaintiff's Life, Marriage, Family, Business, Character Reputation, and safety can never be truly compensated fully by Defendant. Defendant's self-importance has lead it to exceed any boundaries of responsible and honorable precaution in the images it chooses to display in/on the GOOGLE IMAGE SEARCH Results pages. Plaintiff

PRAYS that the Court will, for once, not be blinded by corporate dogma and rhetoric, but will recognize the heretofore related facts for what they are — the Defendant's reckless disregard for the consequences that the violation of Fiduciary Trust can have on a citizen's life; and, how the Defendant's reckless display of questionable images of nude minor children, while debatably "legal" images in some places, are considered "child pornography" in other places — hence, should only be displayed (if at all) with appropriate warning label to advise caution to the well-meaning users of Defendant's Image Search services.

REQUEST FOR MARSHALL'S SERVICE

Defendant herein is a Corporation in California; and, Plaintiff is (now) a pauper requesting "In Forma Pauperis" status proceeding pro se.

Plaintiff, therefore, prays the Court order Defendant served by U.S. Marshal's Service.

This Petition respectfully submitted this 30th day of April, 2020, and Prayerfully requesting Relief and Damages be GRANTED.

James Logan Dierf